



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 15 2009

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Essman
General Manager
Haverhill North Coke Company
2446 Gallia Pike
Franklin Furnace, Ohio 45629

Re: Notice and Finding of Violation at Haverhill North Coke Company, Franklin Furnace

Dear Mr. Essman:

This is to advise you that the U.S. Environmental Protection Agency has determined that Haverhill North Coke Company's (Haverhill North Coke's) facility at 2446 Gallia Pike, Franklin Furnace, Ohio, is in violation of the Clean Air Act (CAA) and associated state or local pollution control requirements. A list of the requirements violated is provided below. We are today issuing you a Notice of Violation and Finding of Violation (NOV/FOV) for these violations.

Haverhill North Coke's PSD Permit to Install (PTI) limits emissions of particulate matter (PM), particulate matter 10 (PM10), carbon monoxide (CO), nitrogen oxides (NOx), sulfur dioxide (SO₂) and volatile organic matter (VOM). The purpose of these emissions limits is to help protect the public from unhealthy exposures to criteria pollutants, emissions of which contribute to respiratory problems, lung damage and premature deaths.

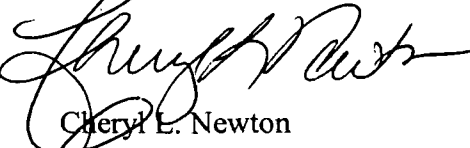
Based on data submitted to EPA on March 3, 2009, Haverhill North Coke has violated and continues to violate provisions in its PSD permit that govern bypass venting from units P901 and P902 coke batteries. Violation of these requirements is also a violation of the Ohio State Implementation Plan (SIP), as well as Title I, Part C of the CAA and its associated regulations which require compliance with the terms and conditions of PSD permits. Accordingly, Haverhill North Coke has violated Title I of the CAA and its implementing regulations.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action. Section 113 of the CAA provides you with the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice and any conference should be held within 30 days following receipt of this notice. This

conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent you at this conference.

EPA's contact in this matter is Gina Harrison. You may call her at (312) 353-6956 if you wish to request a conference. EPA hopes that this NOV/FOV will encourage Haverhill North Coke's compliance with the requirements of the CAA.

Sincerely,



Cheryl E. Newton
Director
Air and Radiation Division

Enclosure

cc: John Paulian, Division of Air Pollution Control
Ohio Environmental Protection Agency

Cindy Charles, Director, Air Pollution Unit
Portsmouth City Health Department

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:

Haverhill North Coke Company
Franklin Furnace, Ohio

Proceedings Pursuant to
the Clean Air Act,
42 U.S.C. §§ 7401 et seq.

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(**FINDING OF VIOLATION**
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NOTICE AND FINDING OF VIOLATION

EPA is issuing this Notice and Finding of Violation (Notice) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). The authority to issue this Notice has been delegated to the Regional Administrator of the EPA Region 5, and redelegated to the Director, Air and Radiation Division. EPA finds that Haverhill North Coke Company and Sun Coke Energy (Haverhill North Coke), are violating the Clean Air Act (Act), 42 U.S.C. §§ 7401 *et seq.*, at the Haverhill North Coke Plant in Franklin Furnace, Ohio, as follows:

Applicable Permits and Regulations:

1. Section 110 of the Act, 42 U.S.C. § 7410, requires States to adopt, and submit to EPA for approval, SIP's providing for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS) promulgated by EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409. EPA has promulgated NAAQS for, among other pollutants, particulate matter (PM) and sulfur dioxide (SO₂).
2. Pursuant to 40 C.F.R. § 52.23, failure to comply with any approved regulatory provision of a SIP, or with any permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, renders the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act, 42 U.S.C. § 7413.
3. On November 1, 1982, the Administrator of EPA approved OAC Rule 3745-15 as part of the federally enforceable SIP for the State of Ohio. 47 Fed. Reg. 43377. OAC Rule 3745-15 regulates general provisions, including but not limited to malfunctions at stationary sources, scheduled maintenance, and reporting.
4. OAC Rule 3745-15-06(A)(3) requires any source scheduling maintenance activities requiring the shutdown or bypassing of air pollution control equipment to request authorization to continue operating the source during the scheduled maintenance. This

request should be submitted in a written report at least two weeks prior to the planned shutdown of the air pollution control equipment.

5. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of Title V of the CAA, or any rule or permit promulgated, issued or approved under Title V of the CAA.
6. 40 C.F.R. § 63.6(e)(1)(i) requires that at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.
7. Ohio EPA, delegated authority by EPA, issued PSD Permit to Install 07-00511 (PSD Permit) to Haverhill North Coke on December 11, 2003. The permit was modified to incorporate new bypass PM emission rate limits via administrative modification on June 27, 2006, and January 15, 2008.
8. Part III Section A(I)(1) of the PSD Permit effective December 11, 2003, limits annual SO₂ emissions from unit P901 bypass vents and unit P902 bypass vents to 192 tons/year per unit.
9. Part III Section A(I)(1) of the PSD Permit effective December 11, 2003, limits annual PM emissions from unit P901 bypass vents and unit P902 bypass vents to 10.8 tons/year per unit.
10. Part III Section A(II)(9) of the PSD Permit effective December 11, 2003, limits bypass venting from units P901 and P902 to 192 hours per bypass vent stack, per rolling 12 month period.
11. Part III Section A(II)(9) of the PSD Permit effective December 11, 2003, requires that there shall be no more than one bypass vent stack in use at any time.

Factual Background

12. Haverhill North Coke owns and/or operates a metallurgical coke plant at 2446 Gallia Pike, Franklin Furnace, Ohio (facility).
13. At the facility Haverhill North Coke operates 200 non-recovery coke ovens designated as Batteries A, B, C, and D. Haverhill's PSD permit identifies emissions unit P901, or Batteries A and B, as the set of 100 ovens constructed in 2004, and P902, or Batteries C and D, as the set of 100 ovens constructed in 2008.
14. EPA issued a Notice and Finding of Violation to Haverhill North Coke Company alleging violations of waste gas stack SO₂ limits on December 10, 2008.

15. EPA sent an information request to Haverhill North Coke Company on February 17, 2009, requesting more information on bypass venting.
16. Haverhill North Coke responded to the information request on March 3, 2009, and reported 7409 hours of bypass venting, 723 excess tons of SO₂, and 47.6 excess tons of PM emitted from the bypass vent stacks since July 2005.
17. In its March 3, 2009 response to EPA, Haverhill North Coke indicated it had not informed Portsmouth Local Air Agency of three HRSG maintenance events, which occurred in 2006, 2007, and 2008.
18. Haverhill North Coke unit P901 suffered a catastrophic stack collapse on February 11, 2009. Haverhill North Coke reported the event and sent subsequent emails¹ to Portsmouth Local Air Agency describing the duration of the event, projected cause and necessary repairs, and estimated emissions. In these correspondences, Haverhill North Coke reported a total of 1323 hours of bypass venting resulting from this event.

Violations of Emissions Limits and Operating Standards

Unit P901

Month/ Year	Total Bypass Events (hours) BV1	Total Bypass Events (hours) BV2	Total Bypass Events (hours) BV3	Total Bypass Events (hours) BV4	Total Bypass Events (hours) BV5	Rolling 12-M Total (hours) BV1	Rolling 12-M Total (hours) BV2	Rolling 12-M Total (hours) BV3	Rolling 12-M Total (hours) BV4	Rolling 12-M Total (hours) BV5
07/2005	10	10	10	10	10	10	10	10	10	10
11/2005	315.5	287	246	230	230	325.5	297	256	240	240
12/2005	1.4					326.9	297	256	240	240
03/2006	0.83	0.38	1.07	0.43	0.47	327.7	297.4	257.1	240.4	240.5
04/2006			148.4*			327.7	297.4	405.5	240.4	240.5
05/2006					156.3*	327.7	297.4	405.5	240.4	396.7
06/2006		0.17		164.8*		327.7	297.6	405.5	405.2	396.7
07/2006		149.4*				317.7	436.9	395.5	395.2	386.7
08/2006	151.6*					469.3	436.9	395.5	395.2	386.7
10/2006					0.04	469.3	436.9	395.5	395.2	386.8
12/2006			0.47			152.4	149.9	150	165.2	156.8
02/2007	148.3	1.28	0.78	146.4	170.1	300.7	151.2	150.8	311.6	326.9
04/2007			121.6*			299.9	150.8	149.7	311.2	326.4
05/2007	0.25	0.62	0.92	0.4	110.5*	300.1	151.4	123.8	311.6	280.6
06/2007	252.8*					552.9	151.3	123.8	146.8	280.6

¹ February 24, 2009, email from Kris Kinder (HNCC) to Cindy Charles (PLAA) reported a total of 1323 hours of bypass venting as a result of the stack collapse.

* designates annual HRSG maintenance as part of the 12-month rolling total.

07/2007	66.87	116.6*	0.02		0.08	619.8	118.5	123.8	146.8	280.7
08/2007	179.1				28.88	798.9	267.9	272.2	311.6	465.9
09/2007	17	19	93.83	130.2*	11	664.3	137.5	217.6	277	320.6
10/2007	190.3	170.1	167.1	93.53	160.3	854.6	307.7	384.7	370.5	480.8
12/2007		1				854.6	308.7	384.2	370.5	480.8
04/2008			99.95*			706.3	307.4	361.8	224.2	310.7
05/2008					153.9*	706	306.8	360.9	223.8	354.1
06/2008	166.6*	0.17	0.17	0.17	0.17	619.8	306.9	361.1	223.9	354.3
07/2008		130.1*				553	320.4	361	223.9	354.2
09/2008				101.7*		356.9	301.4	267.2	195.4	314.3
10/2008		0.08	0.08			166.6	131.4	100.2	101.9	154.1
01/2009		9.22		1.13	45.28	166.6	139.6	100.2	101.9	154.1
02/2009	227	228	287	263	295	393.6	367.6	387.2	366	494.3

Unit P902

Month/ Year	Total Bypass Events (hours) BV6	Total Bypass Events (hours) BV7	Total Bypass Events (hours) BV8	Total Bypass Events (hours) BV9	Total Bypass Events (hours) BV10	Rolling 12-M Total (hours) BV6	Rolling 12-M Total (hours) BV7	Rolling 12-M Total (hours) BV8	Rolling 12-M Total (hours) BV9	Rolling 12-M Total (hours) BV10
09/2008	182.1	188	220.8	250.3	220.8	182.1	188	220.8	250.3	220.8
10/2008	6.15	256	5.73	5.7	5.86	188.3	444	226.5	256	226.6
11/2008	4.8	171.7	230	2.95	9.48	193.1	615.7	456.6	259	236.1
12/2008	74.1	160.5	44	49.55	70.14	267.2	776.3	500.6	308.5	306.2
01/2009	1.8	0.97	1.94	2.23	1.78	269	777.2	502.5	310.8	308

Excess SO₂ and PM Emissions from Bypass Vents

Year	Total Annual SO ₂ (tons)	Annual Permit Limit, SO ₂ (tons/ year)	Percent Exceeding Permit Limit for SO ₂	Total Annual PM (tons)	Annual Permit Limit, PM (tons/ year)	Percent Exceeding Permit Limit for PM
2005	176	192	-	13.1	10.8	121%
2006	107	192	-	6.78	10.8	-
2007	354	192	184%	22.0	10.8	203%

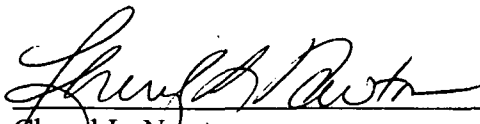
19. Haverhill North Coke's excess bypass venting from units P901 and P902 since 2005 collectively constitutes 165 rolling months of failure to comply with operation standards as required by its PSD permit and therefore violates its PSD permit, the Ohio SIP, and PSD regulations promulgated in 40 C.F.R. § 52.21.

20. Haverhill North Coke's excess SO₂ emissions from unit P901 bypass vent stacks constitute violations of its PSD permit, the Ohio SIP, and 40 C.F.R. 63.6(e)(1)(i).
21. Haverhill North Coke's excess PM emissions from unit P901 bypass vent stacks are violations of its PSD permit, the Ohio SIP, and 40 C.F.R. 63.6(e)(1)(i).
22. Haverhill North Coke's practice of opening more than one bypass vent stack at one time is a violation of its PSD permit.
23. Failure of Haverhill North Coke to notify Portsmouth Local Air Agency of HRSG maintenance activities is a violation of OAC 3745-15-06(A)(3).

Environmental Impact of Violations

24. Excess emissions of SO₂ increase the amount of acid rain and public exposure to unhealthy levels of SO₂. SO₂ reacts with other chemicals in the air to form tiny sulfate particles. Long term exposure to high levels of SO₂ gas and particles can cause respiratory illness, aggravate existing heart disease, and lead to premature death.
25. Violations of particulate emissions standards increases public exposure to unhealthy particulate matter. Particulate matter, especially fine particulate, contributes to respiratory problems, lung damage and premature deaths.

4/15/09
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-09-OH-14, by Certified Mail, Return Receipt Requested, to:

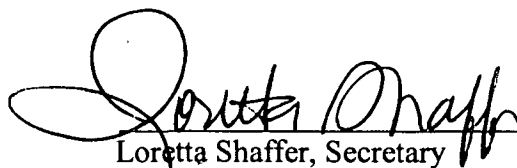
Haverhill North Coke Company
John Essman
2446 Gallia Pike
Franklin Furnace, Ohio 45629

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first class mail to:

Cindy Charles
Portsmouth Local Air Agency
605 Washington Street, Third Floor
Portsmouth, Ohio 45662

John Paulian
OH EPA – DAPC
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43215

on the 15 day of April, 2009.



Loretta Shaffer, Secretary
AECAS, MN-OH

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0186 0385